HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8861 of 2004

Dated:24.08.2007

Between:

Y.Prabha Mani.

…Petitioner.

and

The District Collector and others.

…Respondents.

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8861 of 2004

ORDER:

The petitioner is allegedly an Ex-serviceman having served as an Auxiliary Nurse in Indian Navy at Viakhapatnam. She was allegedly assigned land admeasuring Acs.3.40 in survey No.355/11 under D-Form patta, dated 20.06.1979. She is allegedly in possession of the land. It appears that the third respondent, who is no way concerned with the land, made an application to the respondents to permit him to sell the land. Therefore, the petitioner made a representation to the second respondent on 19.02.2004 for necessary redressal and also requested not to alienate the land. It is alleged that in spite of making representation, the second respondent allegedly issued orders, vide proceedings, dated 13.04.2004 and 17.03.2004, ordering changes in the revenue records. Therefore, the present Writ Petition is filed seeking a direction to respondents 1 and 2 not to permit the third respondent to sell the land in survey No.355/11 admeasuring Acs.3.40.

In the counter-affidavit filed by the Mandal Revenue Officer, Visakhapatnam, it is stated that the subject land is in occupation of the third respondent and that the petitioner was never assigned the land as alleged. An enquiry was conducted and it was revealed that it was assigned only to the third respondent, who is in continuous possession of the land.

After hearing learned Counsel for the petitioner, learned

Assistant Government Pleader for Revenue (Assignment) and learned Counsel appearing for Visakhapatnam Urban Development Authority (VUDA), this Court is of considered opinion that disputed questions of fact would arise in this case as to whether the land was assigned to the petitioner as alleged, whether the land was assigned to other persons and whether the land was handed over to VUDA for the purpose of development of township.

In similar writ petitions, being W.P.Nos.791 and 2056 of 2005, this Court considered the contention of the learned Assistant Government Pleader that the pattas produced by the petitioners are not genuine and they are forged and fabricated one. This Court took a view that an enquiry is necessary into this aspect. This Court disposed of the writ petitions directing the Mandal Revenue Officer to conduct enquiry.

Following the judgment in W.P.No.791 of 2005, dated 14.12.2006, this Writ Petition is also disposed of directing the Mandal Revenue Officer, Visakhapatnam, to conduct a detailed enquiry into the assignments made in favour of the Ex-servicemen. If it is ultimately found that the D-Form pattas are fabricated and forged, appropriate action shall be taken against all those responsible for such fabrication of forged D-Form pattas. The petitioner, however, cannot be evicted, unless appropriate action is taken under Andhra Pradesh Land Encroachment Act, 1905. In case, it is found that the D-Form pattas granted are genuine, it shall always be open to Government to resume the land after paying compensation as per law. This Court also observes that the Mandal Revenue Officer shall conduct enquiry within a period of three months from the date of receipt of a copy of this order, as directed hereinabove. No costs.

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(V.V.S.RAO, J)

24.08.2007

GJ